

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested in light discussion.

Claims 1-22 are pending in the present application. No claims have been amended.

By way of summary, the Official Action presents the following issues; Claims 1-4, 6-11, 14-20 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ono in view of Yoshizawa. Claims 5, 12, 13 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ono in view of Yoshizawa and further in view of Tanaka.

Turning first to the rejection of Claims 1-4, 6-11, 14-20 and 22 under 35 U.S.C. §103(a) as being unpatentable over Ono in view of Yoshizawa, the Official Action takes the position, with respect to Claim 1, that Ono discloses a detection unit configured to detect which of the plurality of communication link security levels is in use at a remote device. The Official Action (page 3) relies on Figure 7, step S206, column 12, lines 28-55, and column 3, lines 17-21. The Official Action relies on Figure 1, element 221, the input/output control unit, and column 3, lines 17-21 of Ono for a teaching of an announcing unit configured to announce said detected communication link security level, wherein each of said plurality of said communication security link levels corresponds to a strength of ciphering in use at the remote device. In addition, the Official Action takes the position (page 3) that Ono discloses detecting which of the plurality of communication link security levels, i.e., encryption, digital signature, encryption and digital signal, etc., (see Figure 7 of Ono) is in use at the remote device. However, the Official Action asserts that Ono does not explicitly mention the term “security level”. To overcome this deficiency of Ono, the Official Action turns to Yoshizawa for teaching of a radio communication device and user authentication method which discloses selecting a security level from a plurality of security levels in accordance

with the condition of the radio communication, relying on column 2, lines 62-64 of Yoshikawa.

For the reasons which follow, Applicants assert that the combined teachings of Ono and Yoshikawa would not have rendered obvious to one of ordinary skill in the art the language of Claim 1. Claim 1 recites “a detection unit configured to detect which of the plurality of communication link security levels is in use at the remote device as said preset communication link security level.”

From Applicants’ review of Ono, Applicants do not find this claimed feature. It would appear from the Official Action that because the server apparatus 4 in Ono indicates whether to perform encryption and which encryption method should be used if performing encryption, that the encryption indicated represents the security level at the server as a preset communication link security level. However, a careful reading of Ono discloses that at column 3, lines 17-21 Ono recites “[a]ccordingly, the message receiving apparatus can specify whether to encrypt/digitally sign the message and which encryption/digital signature method should be used”. However, Ono goes on to additionally state that this is based on the user attribute of the method transmitting apparatus because it’s based on the user attribute of the message transmitting apparatus it is not a reflection of the security level in effect at the server. Accordingly, Ono does not disclose the detecting limitation recited in Claim 1.

It follows that Ono also does not disclose the claimed announcing unit configured to announce the detected communication link security level, where each of the said plurality of communication security link levels corresponds to a strength of ciphering in use at the remote device, because Ono does not disclose detection of which of the plurality of security levels is in use at the remote device as said preset communication link security level, as recited in Claim 1.

Accordingly, Ono makes the determination of whether to encrypt or digitally sign the message, and if so which encryption/digital signature method to be used, based on a user attribute of the message transmitting apparatus and not based on which communication link security level is in use at the remote device as a preset communication link security level which is recited in Claim 1. Accordingly, the assertion in the Official Action (page 3), last four lines that the security level used in a remote device can be detected from the encryption variable and the input message, is not an accurate representation of the disclosure of Ono. As noted above, in Ono the encryption variable is used to determine which encryption or security level to use for the message being sent by the user and it is based on the user attribute and is not based on a security level in a remote device as said preset communications link security level.

Turning to Yoshizawa, the Official Action takes the position that Yoshizawa teaches a radio communication device and user authentication method wherein Yoshizawa discloses “selecting a security level from a plurality of security levels in accordance with the condition of the radio communication,” (underlining added), relying on column 2, lines 62-64 of Yoshizawa. In Yoshizawa the condition of the radio communication referred to is positional information as set forth in column 8, line 29. However, selecting a security level from a plurality of security levels in accordance with positional information, is not a detection of which security level is in use at the remote device as said preset communication link level, as recited in claim 1. Nor does transmitting a password from device A to device B with device B then verifying the password (col. 5, line 48 through col. 6, line 5), a teaching or suggestion of the claim language. Thus, Yoshizawa does not make up for the deficiencies outlined above with respect to Ono. In addition, because Ono is directed to a message receiving apparatus for receiving messages converted for secret communication and Yoshizawa is directed to a radio communication device with a password management, Applicants find no

reason to combine the teachings of the two references other than a hindsight reconstruction of Applicants' invention. In any event, even if the Ono were combined with Yoshizawa as advanced in the Official Action, the resultant structure would fall short of the invention defined in Applicants' Claim 1.

The independent Claims 7, 10, 15, and 17 contain the same or similar language. Accordingly, Applicants maintains that Claims 1-4, 6-11, 14-20 and 22 are patentable over the combined teachings of Ono in view of Yoshizawa. Because Yoshizawa does not make up for the deficiencies of Ono, Applicants request that the rejection of Claims 1-4, 6-11, 14-20 and 22 under 35 U.S.C. §103(a) as being unpatentable over Ono in view of Yoshizawa be reconsidered and withdrawn by the Examiner.


Turning next to the rejection of Claims 5, 12, 13 and 21 under 35 U.S.C. §103(a) as being unpatentable over Ono in view of Yoshizawa and Tanaka, Applicants maintain that these claims are patentable for the reasons set forth, *supra*, with respect to Ono and Yoshizawa and because Tanaka does not cure the deficiencies of Ono. Tanaka describes a camera control device where, if a video display area in use is selected, the user is urged to select either to continue or to stop. Tanaka does not disclose or suggest any processing based on communication security levels, let alone the features recited in Applicants' claims 5, 12, 13, and 21. As stated in the Amendment filed September 17, 2007, "[i]ndeed, as acknowledged by the Examiner's supervisor during the interview of July 26, 2007, the camera control device of Tanaka is not analogous to Applicants' claimed invention." Thus, the outstanding rejection of Claims 5, 12, 13 and 21 under 35 U.S.C. §103 based on Tanaka is improper based on hindsight reasoning. M.P.E.P. §2141.01(a)(i) recites that to rely on a reference under 35 U.S.C. §103 the reference must be analogous art. In this instance, because Tanaka was acknowledged by the Examiner's SPE to be nonanalogous art, it is inappropriate to rely on the reference under a 35 U.S.C. §103 rejection. From all of the above, Applicants

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request that the rejection of Claims 5, 12, 13 and 21 under 35 U.S.C. § 103(a) also be
withdrawn, and that the application be allowed.

Respectfully submitted,

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